



POLICE DEPARTMENT

October 6, 2022

In the Matter of the Charges and Specifications
- against -

Police Officer Vincent Bracco
Tax Registry No. 966969
Building Maintenance Section

Case No.
2021-23834

Police Officer Andrew Aiello
Tax Registry No. 959447
Quartermaster Section

Case No.
2021-23835

Police Officer Michael Comparato
Tax Registry No. 959562
23 Precinct

Case No.
2021-24394

Sergeant Frank Arnedos
Tax Registry No. 934417
28 Precinct

Case No.
2021-24169

At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Jeff S. Adler
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Lauren Silverstein & Kathryn Falasca, Esqs.
Department Advocate's Office
One Police Plaza
New York, NY 10038

For Respondents Aiello, Bracco,
and Comparato Stuart London, Esq.
Worth, Longworth & London, LLP
111 John Street, Suite 640
New York, NY 10038

For Respondent Arnedos: Matthew Schieffer, Esq.
The Quinn Law Firm
399 Knollwood Road, Suite 220
White Plains, NY 10603

To:
HONORABLE KEECHANT L. SEWELL
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

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POLICE OFFICER VINCENT BRACCO
POLICE OFFICER ANDREW AIELLO
POLICE OFFICER MICHAEL COMPARATO
SERGEANT FRANK ARNELOS

CHARGES AND SPECIFICATIONS

Disciplinary Case No. 2021-23834

1. Said Police Officer Vincent Bracco, while on duty and assigned to the 23rd Precinct, on or about February 16, 2021, failed to activate his body-worn camera in accordance with Department protocol.

P.G. 212-123, Pages 1-2, Paragraph 4

USE OF BODY-WORN CAMERA

2. Said Police Officer Vincent Bracco, while on duty and assigned to the 23rd Precinct, on or about February 16, 2021, failed to make complete entries in his activity log.

P.G. 212-08, Page 1, Paragraph 1

ACTIVITY LOGS

3. Said Police Officer Vincent Bracco, while on duty and assigned to the 23rd Precinct, on or about February 16, 2021, improperly stopped a person known to the Department.

P.G. 212-11, Pages 1-9

INVESTIGATIVE ENCOUNTERS:
REQUESTS FOR INFORMATION,
COMMON LAW RIGHT OF
INQUIRY AND LEVEL 3 STOPS

4. Said Police Officer Vincent Bracco, while on duty and assigned to the 23rd Precinct, on or about February 16, 2021, failed to complete a Stop Report as required, after stopping a person known to the Department.

P.G. 212-11, Pages 10-11,
Paragraphs 43-48 & Note

INVESTIGATIVE ENCOUNTERS:
REQUESTS FOR INFORMATION,
COMMON LAW RIGHT OF
INQUIRY AND LEVEL 3 STOPS

5. Said Police Officer Vincent Bracco, while on duty and assigned to the 23rd Precinct, on or about February 16, 2021, failed to notify a parent/guardian after the arrest of a juvenile known to the Department.

P.G. 215-21, Page 1, Paragraph 2

UTILIZATION OF THE
JUVENILE DESK

6. Said Police Officer Vincent Bracco, while on duty and assigned to the 23rd Precinct, on or about April 29, 2021, impeded an official Department investigation by making false

statements to investigators during his hearing pursuant to P.G. 206-13.

P.G. 203-08

FALSE OR MISLEADING
STATEMENTS

7. Said Police Officer Vincent Bracco, while on duty and assigned to the 23rd Precinct, on or about February 16, 2021, improperly used force against a person known to the Department.

P.G. 221-01

FORCE GUIDELINES

P.G. 221-02

USE OF FORCE

Disciplinary Case No. 2021-23835

1. Said Police Officer Andrew Aiello, while on duty and assigned to the 23rd Precinct, on or about February 16, 2021, failed to activate his body-worn camera in accordance with Department protocol.

P.G. 212-123, Pages 1-2, Paragraph 4

USE OF BODY-WORN CAMERA

2. Said Police Officer Andrew Aiello, while on duty and assigned to the 23rd Precinct, on or about February 16, 2021, failed to make complete entries in his activity log.

P.G. 212-08, Page 1, Paragraph 1

ACTIVITY LOGS

3. Said Police Officer Andrew Aiello, while on duty and assigned to the 23rd Precinct, on or about February 16, 2021, improperly stopped a person known to the Department.

P.G. 212-11, Pages 1-9

INVESTIGATIVE ENCOUNTERS:
REQUESTS FOR INFORMATION,
COMMON LAW RIGHT OF
INQUIRY AND LEVEL 3 STOPS

4. Said Police Officer Andrew Aiello, while on duty and assigned to the 23rd Precinct, on or about February 16, 2021, failed to complete a Stop Report as required, after stopping a person known to the Department.

P.G. 212-11, Pages 10-11,
Paragraphs 43-48 & Note

INVESTIGATIVE ENCOUNTERS:
REQUESTS FOR INFORMATION,
COMMON LAW RIGHT OF
INQUIRY AND LEVEL 3 STOPS

5. Said Police Officer Andrew Aiello, while on duty and assigned to the 23rd Precinct, on or about February 16, 2021, failed to notify a parent/guardian after the arrest of a juvenile known to the Department.

P.G. 215-21, Page 1, Paragraph 2

UTILIZATION OF THE
JUVENILE DESK

6. Said Police Officer Andrew Aiello, while on duty and assigned to the 23rd Precinct, on or about May 6, 2021, impeded an official Department investigation by making false statements to investigators during his hearing pursuant to P.G. 206-13.

P.G. 203-08

FALSE OR MISLEADING
STATEMENTS

7. Said Police Officer Andrew Aiello, while on duty and assigned to the 23rd Precinct, on or about February 16, 2021, improperly used force against a person known to the Department.

P.G. 221-01

FORCE GUIDELINES

P.G. 221-02

USE OF FORCE

Disciplinary Case No. 2021-24394

1. Said Police Officer Michael Comparato, while on duty and assigned to the 23rd Precinct, on or about February 16, 2021, failed to activate his body-worn camera in accordance with Department protocol.

P.G. 212-123, Pages 1-2, Paragraph 4

USE OF BODY-WORN CAMERA

2. Said Police Officer Michael Comparato, while on duty and assigned to the 23rd Precinct, on or about and between January 1, 2021 and March 2021, failed to make complete entries in his activity log.

P.G. 212-08, Page 1, Paragraph 1

ACTIVITY LOGS

3. Said Police Officer Michael Comparato, while on duty and assigned to the 23rd Precinct, on or about June 24, 2021, engaged in conduct prejudicial to the good order, efficiency and discipline of the Department, to wit: said Police Officer Comparato was discourteous and insubordinate during his official Department interview.

P.G. 203-10, Page 1, Paragraph 5

PUBLIC CONTACT-
PROHIBITED CONDUCT

Disciplinary Case No. 2021-24169

1. Said Sergeant Frank Arnedos, while on duty and temporarily assigned to the 23rd Precinct, on or about February 16, 2021, engaged in conduct prejudicial to the good order, efficiency and discipline of the Department, to wit: said Sergeant Frank Arnedos failed to supervise subordinate police officers on the Public Safety Team. (*As amended*)

Interim Order 74,
issued September 14, 2020

REVISION TO P.G. 202-18
(SUPERVISOR OF ANTICRIME
PATROL) & P.G. 202-25 (ANTI-
CRIME POLICE OFFICER)

P.G. 212-08, Page 1, Paragraph 5

ACTIVITY LOGS

P.G. 203-05 Page 1, Paragraph 1

PERFORMANCE ON DUTY-
GENERAL

P.G. 203-10 Page 1, Paragraph 5

PERFORMANCE ON DUTY-
PROHIBITED CONDUCT

2. Said Sergeant Frank Arnedos, while on duty and temporarily assigned to the 23rd Precinct, on or about February 16, 2021, failed to conduct a full and proper investigation after learning that a Uniformed Member of Service was involved in a use of force incident.

P.G. 221-03, Pages 4-7, Paragraphs 6-21

TACTICAL OPERATIONS

3. Said Sergeant Frank Arnedos, while on duty and temporarily assigned to the 23rd Precinct, on or about February 16, 2021, failed to make entries in his activity log.

P.G. 212-08, Page 1, Paragraph 1

ACTIVITY LOGS

4. Said Sergeant Frank Arnedos, while on duty and temporarily assigned to the 23rd Precinct, on or about February 16, 2021, failed to ensure that proper notifications were made to a parent/guardian after the arrest of a juvenile known to the Department.

P.G. 215-21, Page 1, Paragraph 3

UTILIZATION OF THE
JUVENILE DESK

REPORT AND RECOMMENDATION

The above-named members of the Department appeared before me on July 7, 8, 20, and August 25, 2022. Respondents Aiello, Comparato, and Arnedos, through their respective counsel, entered pleas of Guilty to the charge of failing to make Activity Log entries, and Respondent Arnedos also pleaded guilty for failing to ensure that the parents of the juvenile arrestee were notified; Respondents pleaded Not Guilty to the remaining charges. The Department called the complainant's mother, Captain James Haggerty, Sergeant Stephen Mazza, and Sergeant Eduard Sandoval as witnesses, and introduced into evidence hearsay statements of the complainant along with video footage. The Respondents called Inspector Aneudy Castillo, Lieutenant Michael DiSanto and attorney David Stand as witnesses, and testified on their own behalves. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having reviewed all of the evidence in this matter, I find as follows:

Respondents Bracco and Aiello:

Specification 1 (BWC): Guilty

Specification 2 (Activity Logs): Bracco: Not Guilty; Aiello: Guilty

Specification 3 (Improper Stop): Not Guilty

Specification 4 (Stop Report): Not Guilty

Specification 5 (Notify Parent): Bracco: Guilty; Aiello: Not Guilty

Specification 6 (False Statements): Not Guilty

Specification 7 (Force): Not Guilty

Recommended penalty: Bracco: five (5) vacation days; Aiello: five (5) vacation days.

Respondent Comparato:

Specification 1 (BWC): Guilty

Specification 2 (Activity Log): Guilty

Specification 3 (Discourteous at Interview): Guilty

Recommended penalty: ten (10) vacation days.

Respondent Arnedos:

Specification 1 (Fail to Supervise): Guilty-in-Part

Specification 2 (Fail to Investigate): Guilty-in-Part

Specification 3 (Activity Log): Guilty

Specification 4 (Notify Parents): Guilty

Recommended penalty: fifteen (15) vacation days.

ANALYSIS

It is alleged that on the evening of February 16, 2021, Respondents Bracco and Aiello wrongfully stopped and used force against a 17-year old juvenile ("the complainant"). The Department Advocate's position is that the officers conducted a stop of the complainant based on their belief that he possessed a firearm, but that they did not have reasonable suspicion to do so. Counsel for Bracco and Aiello counters that the stop was proper, in that it occurred only after one of the officers, Bracco, observed the complainant commit a violation by crossing a street against a pedestrian-control signal. Those two Respondents also face additional charges stemming from the encounter, the most serious of which alleges that they made false statements at their official Department interviews about their initial observations of the complainant.

Respondent Comparato, who was in a separate vehicle and joined the pursuit, is accused of being discourteous and insubordinate during his Department interview. Respondent Arnedos, the Public Safety Sergeant, faces several charges in connection with his supervision and investigation of the matter.

The complainant did not appear to testify. The parties stipulated that if he had appeared as a witness, defense counsel would have asked the complainant whether he shot an innocent civilian (unrelated to this case) on July 13, 2021, in the vicinity of East 118th Street and 5th Avenue, as well as questions about the weapon and whether the shooting was related to a gang war; the complainant, on advice of counsel, would have refused to answer those questions. (Tr. 93)

The Department entered into evidence two telephone interviews of the complainant, one conducted by the CCRB on February 24, 2021, and the other conducted by Sergeant Eduard Sandoval of Patrol Borough Manhattan North Investigations on March 10, 2021 (Dept. Exs. 2A & 2B, and 3A & 3B). It is well-settled that hearsay evidence is admissible in administrative proceedings, and may form the sole basis for a finding of fact. The hearsay, however, must be carefully evaluated to determine whether it is sufficiently reliable. It is preferable to have testimony from a live witness, where opposing counsel has the opportunity to cross examine, and the court can observe the witness's demeanor. In the absence of live testimony from the complainant, this tribunal carefully considered his prior statements, in conjunction with the other evidence presented at trial.

In the first interview with the CCRB investigator, the complainant stated he was going to the store to pick up cat litter when the police drove up and "hopped out" on him. They told him

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to put his hands up, so he just ran. He fled back toward his residence, then stopped running. An officer came up behind him and tackled him into the gate, causing him to hit his ribs, leg, and arm, and he was thrown to the ground. Once he was on the ground, one officer was on top of him and then another officer ran up and punched him on the right side of his face; he was not yet handcuffed when he was punched. The complainant denied that he tried to prevent the officers from handcuffing him. He told the officers he was 17 and that he did not have any weapons on him; only marijuana was found on his person during a search. (Dept. Ex. 2B at 5, 13-19)

After he was handcuffed, the complainant was brought back to the precinct. According to the complainant, he was asked questions about people in his area and if they had guns, and offered a job where he would get \$1200 to tell on people if they had a gun. He told the officers he did not know anything about that. The complainant stated that he was asked if he needed medical attention and he said, "Nah, I'm alright." He was given two summonses that night and released from the precinct, without the officers contacting his mother. (Dept. Ex. 2B at 20-22) The complainant essentially repeated his account in his phone call with Sergeant Sandoval on March 10. (Dept. Ex. 3B at 3-7, 10-13, 17, 22)

The complainant's mother confirmed that she asked her son to go pick up cat litter at the store that evening. She testified that she was not aware that her son had been arrested until he called her after being released from the precinct; she did not receive any phone calls from the police notifying her of the arrest. When he returned home, the complainant told her that the officers had jumped out of a car, he was scared, and so he ran; when he stopped running, the officers jumped on him, and one of them "sucker-punched" him. (Tr. 38-44, 63, 75-76)

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Later that evening, the complainant's mother called the police to make a report. In that call (Dept. Ex. 1), she explained what happened just as she did at trial. When asked during the call whether her son was injured, she stated that he said he was fine. The complainant then joined the call and stated that he first saw the officers when he was coming out of his building. He observed them again as he was walking (on Lenox Avenue). They drove past him then stopped. An officer exited the vehicle and told the complainant to put his hands up; the complainant did not know why he was being told to do so, so he ran until he was caught. (Tr. 45, 85)

It wasn't until the next day that the complainant's mother first observed injuries to her son, after he complained of pain to his body and a headache. She testified that she took photos of bruises to his chest and ribs (Dept. Exs. 6A & 6B). She took her son to CityMD for medical attention, and then to the Mount Sinai Hospital emergency room. The medical discharge papers from CityMD (Dept. Ex. 7) indicate contusions to the rib, abdomen, knee, elbow, and jaw, but no fractures. The complainant's mother acknowledged that after the incident she contacted an attorney, who filed a Notice of Claim against the Police Department. (Tr. 46-47, 54, 65-67, 78-83-84)

Sergeant Sandoval was assigned to investigate this matter after the complainant's mother reported the incident. He testified that he interviewed the complainant (summarized above), reviewed the paperwork prepared in connection with the matter, and conducted a video canvass to obtain NYCHA footage as well as surveillance video from buildings in the surrounding area. (Dept. Exs. 8A-8E, 9, 10A, and 10B; Tr. 148, 151-53, 188-92, 199)

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Additionally, Sandoval obtained and reviewed the Body-Worn Camera ("BWC") footage from the officers on duty that day. (Dept. Exs. 11A, 12A, 13A, 14A, 15A, and 15C) Based upon his review, Sandoval determined that Aiello, Bracco, and Comparato did not activate their body-worn cameras until after the force incident was terminated and the complainant was in custody. (Tr. 159-61, 192-94, 252-53)

One of the documents Sandoval looked at as part of his review was the TRI report (Dept. Ex. 19), which needs to be prepared in cases where there is a use of force by the officers. According to Sandoval, during the initial hours at the precinct, there was no investigation into the force incident. A report was not initiated until several hours after the incident, only after the complainant's mother called to make a complaint of excessive force. The report was then completed as a Level 2 force incident by Captain James Haggerty, with input from Aiello and Bracco. The narrative section of the TRI states that the officers attempted to stop the complainant for jaywalking, and the complainant fled on foot, with the officers in pursuit. Aiello pushed the complainant to the ground, but the complainant would not give up his arms. Bracco gave one hand strike to the side of the complainant's head with the palm of his hand, and the officers placed the complainant in handcuffs. The complainant was not injured, and he refused medical attention. A small bag of marijuana was recovered from the complainant, who was issued two summonses and released from the precinct. (Tr. 156-58, 161-62, 241-52)

Sandoval noted that there was no Stop Report prepared in connection with this incident, though two summonses (Dept. Exs. 17A & 17B) were issued to the complainant. (Tr. 173-74, 183, 234-37) He also observed that Aiello, Comparato, and Arnedos did not have memo book entries documenting this incident, while Bracco's Activity Log for February 16, 2021 did not

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have the correct location and did not include any use-of-force details; Bracco did, however, have entries stating that there had been a stop with one under (arrest), that two summonses were issued (including their numbers), the TRI number, an address for the incident, the job number, and the final disposition time. (Dept. Ex. 20; Tr. 162-65, 237-40)

As part of his investigation, Sandoval interviewed Bracco on April 29, 2021 (Dept. Exs. 22A & B), Aiello on May 6, 2021 (Dept. Exs. 21A & B), and Comparato on June 24, 2021 (Dept. Exs. 23A & B). Sandoval testified that prior to their interviews, Respondents viewed the video footage of the incident, including the NYCHA videos and the BWC footage. Each of the interviews will be discussed later in the decision. (Tr. 202-06, 217-20)

Inspector Aneudy Castillo testified that he supervised Aiello and Bracco for approximately two years, including at the time of this incident. He described Aiello as the best cop he has supervised in his career, a highly driven, extremely intelligent and professional officer with great instincts. Inspector Castillo added that Bracco possesses all the same attributes, lacking only a little bit of experience. He noted that they both take directions well, and are mature beyond their years. With respect to Comparato, Inspector Castillo referred to him as an officer who is very respectful of rank. (Tr. 332-34)

According to Inspector Castillo, a month before this incident there was a double shooting, one fatal, in the confines of the 25 Precinct; police investigation revealed that the shootings were gang related, and that the shooters came from the King Towers, within the adjoining 28 Precinct. One of the victims resided in the 23 Precinct. Concerned with the border violence, the Commanding Officers of the neighboring precincts formulated a joint plan to address the violence. As part of that plan, Officers Aiello, Bracco, and Comparato, who were assigned to an

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elite unit in the 23 Precinct, were authorized to leave the confines of their precinct and travel into the bordering precincts for law enforcement purposes. (Tr. 335-37)

After the officers returned to the command on the night of the incident, Inspector Castillo, who was a Deputy Inspector at the time, discussed with them what had transpired, and reviewed their BWC footage. Inspector Castillo testified that he was satisfied that the officers did their jobs correctly, and they agreed to issue a disorderly conduct summons to the complainant and release him from the precinct. Based on his initial investigation, this was a Level 1 force incident involving hand strikes; later, after there was an allegation of excessive force and injury, the matter was bumped up to a Level 2, which required additional investigation. According to Inspector Castillo, there was no need to prepare a Stop Report since a violation had been observed. (Tr. 338-43, 347, 350)

Lieutenant Michael DiSanto, the Special Operations Lieutenant at the 23 Precinct, echoed Inspector Castillo's high praise for Respondent's Aiello, Bracco, and Comparato. He confirmed that the officers had permission to leave the confines of the 23 Precinct because of the violence in the bordering precincts. DiSanto testified that on the night of the incident, after speaking with the officers and reviewing their BWC footage, he determined that there had been no misconduct in the apprehension of the complainant; he did not, however, speak with the complainant or review any surveillance footage. DiSanto discussed the circumstances of the stop with the officers, and instructed Bracco to issue summonses for disorderly conduct and unlawful possession of marijuana; DiSanto decided that there was no need to add an additional summons for jaywalking. Since the officers had observed a violation and issued a summons, DiSanto

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advised them that there was no need to prepare a Stop Report for the incident. (Tr. 607-12, 615, 618, 621)

DiSanto testified that he observed Aiello and Bracco discussing the preparation of a TRI report with Respondent Arnedos, who, as the direct supervisor, was initially responsible for completion of the report. At first, the encounter was considered a Level 1 force incident. DiSanto was no longer at the precinct when the matter was later elevated to a Level 2 after the phone call from the complainant's mother, at which point the matter was handled by Captain James Haggerty and the TRI was completed. (Tr. 608, 611, 616-20)

Captain James Haggerty testified that he was the Manhattan North duty captain on the night of the incident. He was notified by the Borough that there was a Level 2 force matter which he needed to investigate, based on an allegation of excessive force made by the complainant's mother. He responded to the precinct, reviewed the BWC footage, and spoke with the officers involved, including Aiello and Bracco; he was unable to reach the complainant's mother. Captain Haggerty prepared the TRI report (Dept. Ex. 19)¹, including a narrative section that was based on his interviews of the officers and his review of the BWC footage. He could not recall any of the officers mentioning that they saw the complainant "blade" his body. Based on his investigation, Captain Haggerty concluded that the officers' use of force was not excessive, and no further action was necessary; he did not, however, evaluate if the stop, itself, was justified. (Tr. 294-302, 305-08, 311)

¹ According to Captain Haggerty, Sergeant Arnedos is listed as the "owner" of the TRI report because Captain Haggerty asked him to start the report, which the captain then completed upon his arrival. (Tr. 299, 304)

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The charges against Respondents Bracco and Aiello will be considered together, while those against Respondents Arnedos and Comparato will be considered separately.

Respondents Bracco and Aiello

Respondents Bracco and Aiello each face seven charges stemming from their interaction with the complainant, and the aftermath. It is the position of the Department Advocate that the officers did not have sufficient legal authority for their actions toward the complainant, and that they each provided false accounts of what occurred during their official Department interviews. Counsel for Bracco and Aiello counters that the officers did have a lawful basis for their actions, and that their statements at their Department interviews were truthful.

At trial, Bracco testified that he and his Public Safety Unit colleagues have authorization from their bosses to leave the confines of the 23 Precinct as part of their enforcement activity. Bracco explained that the gang violence between neighboring housing developments is not constrained by precinct borders, and so the officers need the flexibility to deal with crime that spills over into adjoining precincts, such as the 28 Precinct. (Tr. 441-44)

On the evening of the incident, Bracco was the recorder in an unmarked car, being operated by his partner, Respondent Aiello. Both officers were in uniform. Bracco testified that at approximately 2000 hours, as they were driving on a U-shaped roadway through the King Towers, located within the 28 Precinct, he observed the complainant walking past their vehicle heading toward Lenox Avenue. The complainant briefly looked toward their car, and “his eyes completely light up” as he stared, which from experience suggested to Bracco that the complainant recognized them as police officers. Bracco testified that whereas the complainant’s arms were just swinging along until that point, as he was crossing the police vehicle the

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complainant pulled his right hand and arm tight to his side, as if to obstruct a view of his pocket. According to Bracco, this was a form of “blading,” a body motion designed “to obstruct or hide a possible weapon, or whatever they may be in possession of.” He described “blading” as a broad term which could also include situations where an individual rotates their body to reduce visibility; when he used the term here, he was referring to the manner in which the complainant held his right arm tight to his body. As the complainant continued walking toward Lenox Avenue, he repeatedly looked back at the police car. Based on the totality of his observations, Bracco believed the complainant was in possession of a concealed firearm. (Tr. 444-53, 478-80, 483-87)

At this point, the officers decided to further observe the complainant. They looped their car around to Lenox Avenue, and proceeded northbound, behind the complainant who was walking in the same direction, again with his right arm tight to his body. Bracco testified that the complainant looked back toward their vehicle numerous times, then, for reasons that were unclear, started to run toward 115th Street. As he approached the intersection, the complainant slowed to a jog, proceeded to cross the street against the pedestrian signal device, and continued walking. Bracco determined that the complainant had committed a traffic violation by crossing against the red signal, and he now had a basis to stop him. The police car passed the complainant, and Bracco exited the vehicle between 115th and 116th Streets, where he walked toward the complainant. Bracco observed the same look on the complainant’s face that he had noticed earlier, with the complainant’s eyes lighting up and his body getting tense. The complainant turned and ran south on Lenox Avenue, with Bracco and Aiello giving foot pursuit. (Tr. 454-64, 487-501)

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The complainant ran toward 115th Street and made a left, with the officers close behind. Bracco testified that he was yelling, "Stop running, police," but the complainant continued to flee into the King Towers. Aiello was the first to catch up to the complainant, and brought the complainant to the ground. The complainant was down on the sidewalk with his arms underneath him, and refusing Aiello's order to give up his hands. Bracco was concerned that the complainant was reaching for a gun, and so he gave the complainant a single strike to the top of his head with an open hand, in order to gain compliance. The officers successfully handcuffed the complainant, who was transported to the precinct without further incident. (Tr. 465-70)

At the precinct, the officers reviewed their BWC footage with their supervisors, including Deputy Inspector Castillo, Lieutenant DiSanto, and Sergeant Arnedos. Bracco testified that no one expressed concerns regarding the actions of the officers. Bracco conferred with his supervisors and decided to issue two summonses to the complainant: one for disorderly conduct, since the complainant had led the officers on a dangerous foot pursuit during which several groups of bystanders in their path could have been injured in a collision, and one for unlawful possession of marijuana, since a quantity of marijuana was recovered from the complainant's person. Bracco did not observe any visible injuries, and the complainant refused medical attention. (Tr. 466, 472-74, 504-10)

Bracco conceded that he was aware that the complainant was 17 years of age, and that he could not recall whether a parent or guardian was notified. Bracco also testified that he did not activate his BWC at the outset of the foot pursuit, explaining that his focus was on the pursuit itself and his concern for his safety, and that he activated the camera as soon as it was reasonable to do so. He did not prepare a Stop Report since a violation had been observed and a summons

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issued. In his Activity Log (Dept. Ex. 20), Bracco recorded that there had been a stop with one under arrest, that two summonses were issued (including their numbers), the TRI number, the address of the incident, and the job number. (Tr. 474-76, 502-03, 514, 519)

Respondent Aiello testified at trial that when he first observed the complainant walking, he was swinging his arms. As the complainant passed in front of their vehicle, he looked at the officers and his eyes went wide open, as if he were shocked to see them. Aiello saw the complainant immediately pull his right arm tight to his side in a “blading” motion, and observed the “slightest movement” of his body from right to left. As he continued walking, the complainant repeatedly looked back in the officers’ direction, while keeping his right arm tight to his side. Although he did not actually see the bulge or outline of a weapon, it looked to Aiello like the complainant was concealing a firearm. (Tr. 546-48, 563-65, 577-80)

Their suspicions aroused, the officers decided to observe the complainant further, and see if he committed a violation. They drove their vehicle to Lenox Avenue, where Aiello saw the complainant walking northbound toward 115th Street. Aiello testified that the complainant was looking around “frantically,” with his right arm still tight to his side. The complainant started running toward 115th Street, and Aiello drove his vehicle ahead to 116th Street, where he stopped. Aiello did not see the complainant cross 115th Street against the light, though his partner Bracco may have mentioned it in the car. Bracco exited the vehicle and approached the complainant, who turned and ran southbound on Lenox Avenue. Aiello observed Bracco chasing the complainant, and so he exited his car and joined his partner in the pursuit. (Tr. 548-51, 566-67, 573-74, 581-83, 594)

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When he caught up to the complainant, Aiello gave him a two-hand push to the ground. Aiello testified that he ordered the complainant "give me your hands," but the complainant refused to comply, placing his hands under his body. Bracco arrived a few seconds later and helped handcuff the complainant, at which point Aiello activated his BWC for the first time. The officers did a sweep of the area in search of a weapon, but did not recover one. Aiello did not observe any injuries on the complainant, who did not complain of any and refused medical attention. (Tr. 551-56, 568-73, 585)

Back at the stationhouse, Aiello spoke with his supervisors, Arnedos and DiSanto, and reviewed his BWC footage with them. They discussed preparation of a TRI report since force had been used, and he later had a conversation about that with Captain Haggerty when the captain arrived to prepare the report. Aiello was not involved in a conversation about whether a Stop Report needed to be prepared, because he was not the arresting officer. Aiello conceded that he did not make any entries in his Activity Log regarding this incident. He did not notify the complainant's parents that he was in custody. (Tr. 556-59, 574, 597)

I find that both Bracco and Aiello were credible witnesses. Bracco's testimony was detailed, consistent, and logical, and he answered questions willingly. He came across as professional and earnest, and I credit his description of what transpired. Aiello's testimony was similarly convincing, as he described the sequence of events leading to the encounter with the complainant. Coupled with the other evidence presented, including the testimony of their superior officers, as well as the video footage, I credit the accounts provided by Bracco and Aiello. With that in mind, we turn to the specific charges, which will be considered out of order.

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Specification 6 alleges that Bracco and Aiello each made false statements at their official Department interviews. Section 203-08 of the Patrol Guide prohibits the making of false statements during an official investigation. Specifically, it is alleged that Bracco and Aiello gave a false narrative with respect to their initial observations of the complainant as he passed by their police vehicle. The transcript pages containing the statements that the Department Advocate claims are false are listed in a Bill of Particulars (Court Ex. 2).

Bracco was interviewed on April 29, 2021 (Dept. Exs. 22A & B). In that interview, he stated, in relevant part, that after looking in the officers' direction, the complainant's eyes lit up and he bladed his body tight, "you know, hug the right side of his body tight, walks toward Lenox Ave." He later reiterated how the complainant "tightened up the right side blading his body so we couldn't see whatever he had on his side." Bracco went on to describe how the officers looped around to Lenox Avenue, where he observed the complainant cross 115th Street against traffic. Bracco exited the vehicle and approached the complainant on foot, who fled southbound, with Bracco and other officers in pursuit. Bracco described in detail how the complainant was apprehended, including how he refused to give the officers his hands. (Dept. Ex. 22B at 15-17, 25, 33, 36, 56)

Aiello's interview occurred on May 6, 2021 (Dept. Exs. 21A & B). In that interview, he similarly described how the complainant's eyes went wide as he looked at the officers in their vehicle, and then immediately started blading the right side of his body. Aiello explained how it looked like the complainant grabbed the right side of his body as he walked quickly toward Lenox Avenue, and turned his right side away from the officers. Aiello then described how the officers drove to Lenox Avenue where they observed the complainant begin to run. When

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Bracco approached on foot, the complainant fled, with the officers in pursuit. (Dept. Ex. 21B at 14, 21-25)

The accounts provided by Bracco and Aiello at their interviews were essentially consistent with their testimony at trial. As indicated above, I credit their description of events. Both are highly regarded officers who conduct themselves in a professional manner, and demonstrate superior instincts in their police work. Here, when they first observed the complainant, he was walking down the steps of the ramp, with his arms swinging freely. As he passed the police car, he turned and looked at the officers, and his eyes grew wide; in the call to IAB on the night of the incident (Dept. Ex. 1), the complainant acknowledged that he first noticed the police officers as he exited his building. The complainant immediately tightened his right arm to his side, which both officers explained was a form of blading, a body motion designed to hide or obstruct possession of a weapon. The complainant continued walking with his right arm close to his side, while looking back more than once in the direction of the officers.

The video footage (Dept. Ex. 8E at 8:07.39) essentially supports their accounts, showing the complainant walking down the ramp with his arms swinging freely. Once he reaches the bottom of the ramp and looks at the officers, he switches to a shortened arm swing, with his right arm closer to his side as he continues walking. Although Aiello claimed to see the complainant make a slight turn of his body to the left, the video footage is not clear enough to say definitively whether or not such a slight turn of the body occurred. What is clear is that the complainant's stride is noticeably different after he passes the police officers, and he can be seen on video looking back in their direction.

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As such, I am not persuaded from the credible evidence that Bracco or Aiello made any false statements in their Department interviews. Both officers came across as genuine and conscientious on the witness stand, as they explained how their interview statements reflected what they did, in fact, observe. Indeed, they each viewed the video footage before their interviews, making it even more unlikely that they would then fabricate a description of events that was inconsistent with that footage. The burden rests with the Department Advocate to prove, by a preponderance of the credible evidence, that Bracco and Aiello intentionally provided statements that they knew to be untrue. The Advocate has failed to meet that burden, and I find Bracco and Aiello not guilty of Specification 6.

Specification 3 charges Bracco and Aiello with improperly stopping the complainant, while Specification 7 alleges that they used improper force when they apprehended him. At the outset of the trial, the Department Advocate clarified that they are not claiming that the force tactics used by the officers were improper; rather, the allegation is that since the officers did not have a sufficient legal basis for the stop, the force that was employed as part of that stop was improper as well.

It is the Advocate's position that the complainant was wrongfully subjected to a Level 3 Terry stop without reasonable suspicion. The officers had not actually observed a firearm, or even a bulge, nor did they possess any independent information that the complainant was carrying a weapon. However, that assessment of the encounter is incomplete: the complainant

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was lawfully apprehended only after Bracco observed him commit a traffic violation², and the force the officers used was reasonable and appropriate in order to gain compliance.

Specifically, based on their initial observations of the complainant, Bracco and Aiello suspected he was in possession of a firearm. However, they did not attempt to stop him at that point; instead, they decided to observe him further. On Lenox Avenue, Bracco saw the complainant cross 115th Street against the traffic signal. The video footage (Dept. Ex. 10A at 1:40) corroborates his account. Only after witnessing this traffic violation did Bracco exit the vehicle and approach the complainant. When the complainant fled, Bracco pursued him on foot, and his fellow officers joined the chase as well. Aiello was candid in acknowledging that he, himself, did not witness the violation, nor could he recall whether he and Bracco discussed it in their vehicle. Nevertheless, I credit that Bracco did make the observation, which provided sufficient legal authority to pursue and stop the complainant, and that Aiello was justified in supporting his partner in the pursuit, as were the other officers.

Since I find that the stop was proper, the officers were also justified in using a reasonable degree of force to gain control of the complainant, which they did in this case. As noted above, the Advocate is not alleging that the force tactics used here were excessive, and I agree with that assessment. I credit the officers' account, supported by the BWC footage (Dept. Exs. 11A & 12A), that after Aiello brought the complainant to the ground, he resisted efforts to place him in handcuffs by refusing to give up his hands. Bracco gave the complainant a single strike to his

² Although the officers referred to the violation as "jaywalking," the actual offense was crossing the roadway against the pedestrian-control signal (V.T.L. § 1112).

head with an open hand in order to gain compliance, and the complainant was placed in handcuffs without further incident.

As such, the record has failed to establish, by a preponderance of the credible evidence, that Bracco or Aiello improperly stopped the complainant, or that they improperly used force against him. Accordingly, I find Bracco and Aiello not guilty of Specifications 3 and 7.

The remaining charges allege various violations of the Department's rules and regulations. Specification 1 charges Bracco and Aiello with failing to activate their BWCs in a timely manner. Section 212-123 of the Patrol Guide requires mandatory activation of BWC for all UMOS prior to engaging in or assisting another UMOS in police action, including situations where a public interaction escalates and becomes adversarial, as well as interactions with persons suspected of criminal activity.

Here, it is undisputed that neither Bracco nor Aiello activated their BWCs until after they had the complainant in custody. As such, they failed to capture Bracco's initial approach to the complainant on Lenox Avenue, as well as the ensuing pursuit when the complainant fled. To be sure, it is not expected that a UMOS activate their BWC if doing so would create a genuine threat to their safety. In this situation, however, there was no such impediment to the officers activating their cameras on Lenox Avenue, which would have allowed them to record more of the encounter, including their pursuit through groups of pedestrians that led to the issuance of the disorderly conduct summons. Accordingly, I find Respondents Bracco and Aiello guilty of Specification 1.

Specification 2 alleges deficiencies in the Activity Logs of Bracco and Aiello (Dept. Ex. 20), in violation of Section 212-08 of the Patrol Guide. With respect to Aiello, it is charged that

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he did not make any entries regarding this incident. Aiello pleaded guilty to this count, admitting that he failed to make any such entries. As such, Respondent Aiello is guilty of Specification 2.

As for Bracco, the Department Advocate acknowledges that he did make certain entries, but argues that those entries were not complete. In his Activity Log, Bracco did note that there had been an encounter resulting in an individual being placed under arrest, that two summonses were issued (including the summons numbers), the TRI number, the address of the incident, the job number, and the final disposition time. The Advocate points out, though, that the address listed, E. 115th Street and 5th Avenue, is incorrect, and should instead have been 115th Street and Lenox Avenue. Bracco's entries also do not include reference to the force used during the apprehension; however, the use of force was documented in the portion of the TRI report prepared by Bracco, so this was not a situation where Bracco was attempting to conceal it.

On the one hand, the Advocate is correct in noting Bracco's error regarding the location of the incident. However, under the totality of these specific circumstances, I do not find that the manner in which Bracco completed his Activity Log constitutes misconduct. Unlike his colleagues, Bracco did include many pertinent details regarding the encounter. The mistake he made -- stating 5th Avenue instead of Lenox Avenue -- should be viewed in that context. Based on this evidence, the Tribunal concludes that the record has failed to establish, by a preponderance of the credible evidence, that Bracco committed misconduct by failing to make complete entries in his Activity Log. Accordingly, I find Respondent Bracco not guilty of Specification 2.

Specification 4 alleges that Bracco and Aiello failed to complete a Stop Report for this incident. Section 212-11 of the Patrol Guide states that for all Level 3 Terry stops, a UMOS

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must prepare a Stop Report. However, the Patrol Guide also notes that a Stop Report is not prepared when an officer makes a summary arrest or issues a summons for an observed violation, unless the suspect was initially detained in a Terry stop.

It is the position of the Department Advocate that this encounter was a Level 3 Terry stop, requiring the preparation of a Stop Report. As such, since both Bracco and Aiello were involved in that stop, a Stop Report should have been generated by the officers. It is undisputed that no such report was, in fact, prepared.

Counsel for Respondents counters that since a violation was observed leading to the stop, and a summons was issued, the regulations did not require that a Stop Report be prepared. I agree with that argument. As discussed above, this was not a situation where the officers stopped the complainant merely based on suspicion that he possessed a firearm. Rather, after making their initial observations, they chose to watch the complainant further. Bracco only approached the complainant after observing him commit the offense of crossing the street against the pedestrian-control signal. After the ensuing chase, the complainant was apprehended, and summonses were issued to him.

Moreover, the supervisors at the stationhouse, Deputy Inspector Castillo and Lieutenant DiSanto, determined that there was no need for a Stop Report here, and instructed Bracco, the arresting officer, accordingly. As such, under the facts presented here, an informed decision was made that the preparation of a Stop Report was not necessary, a conclusion confirmed by a deputy inspector and lieutenant. The credible evidence has failed to establish that Bracco and Aiello wrongfully failed to prepare a Stop Report, and I find them each not guilty of Specification 4.

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Specification 5 alleges that Bracco and Aiello failed to notify the juvenile complainant's parents that he was arrested and in custody at the precinct. Section 215-21 of the Patrol Guide states that when a juvenile has been detained and removed to a police facility, the arresting officer must immediately notify the parent or guardian. Here, it is undisputed that no such notification was made by any of the MOS involved in the incident. The complainant's mother was only alerted to the situation when the complainant, himself, called her upon his release from the stationhouse.

As the arresting officer, Bracco had the responsibility for making the proper notification. This he failed to do, and I find Respondent Bracco guilty of Specification 5. However, the same cannot be said of Aiello: though he participated in the apprehension, he was not the arresting officer, and no evidence was presented suggesting that anyone had instructed him to make the required notifications. The responsibility to notify the complainant's parents did not rest with Respondent Aiello, and I find him not guilty of Specification 5.

Respondent Arnelos

Respondent Arnelos faces four charges stemming from his supervision of the incident. He pleaded guilty to two of the counts: Specification 3, which charges him with failing to make entries in his Activity Log, and Specification 4, which charges him with failing to ensure that proper notifications were made to the complainant's parents. The remaining two counts are being contested: Specification 1 charges Arnelos with failing to supervise his subordinates, while Specification 2 charges that he failed to conduct a full and proper investigation.

At trial, Arnelos testified that he was the Public Safety Sergeant responsible for directly supervising Respondents Aiello, Bracco, and Comparato on the date of the incident. He did not

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initially go out into the field with his officers at the start of their shift. Arnedos explained that he had just returned after being out for one month and was attending to administrative work; he intended to go out to check on his team later in the tour, but this incident occurred within the first half hour of their shift. (Tr. 625-27)

When Arnedos learned that his officers had taken the complainant into custody, he did not go to the location; rather, he instructed them to bring the individual back to the precinct, and Arnedos met them at the desk. Arnedos testified that he did not speak directly with the complainant, but heard his officers questioning him. They asked the complainant if he required medical attention, and he responded that he did not; the officers did not, however, specifically ask the complainant whether he was injured. Arnedos did not observe any injuries, and the complainant did not make any claim that excessive force had been used against him, so Arnedos did not take any photographs of the complainant. The interaction with the complainant at the front desk was captured by Officer Zalewski's BWC (Dept. Ex. 14A). (Tr. 627-28, 630, 644-50, 654, 671-72)

Since the complainant was 17, Arnedos had him brought to the juvenile room. Arnedos testified that he and Lieutenant DiSanto spoke with the officers involved in the incident and reviewed the BWC footage. They agreed that this was a Level 1 force incident, and that summonses for disorderly conduct and unlawful possession of marijuana would be issued to the complainant. Arnedos acknowledged that it was his responsibility to complete the TRI report, which he intended to do near the end of his shift. When the complainant's mother called in her complaint of excessive force, the matter was raised to Level 2, at which point Arnedos initiated

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the TRI paperwork and notified Captain Haggerty, who came to the stationhouse and took over the completion of the report. (Tr. 632-35, 657-58, 662-64)

Arnedos testified that he did not believe it was his responsibility to list the officers who were present for duty in the Command Log, nor did he feel that a Stop Report needed to be prepared in this case. He did not document in the Command Log that his officers had failed to activate their BWCs in a timely manner. Arnedos testified that since he was at the stationhouse, he never inspected or signed his officers' Activity Logs, nor did he make entries in his own Activity Log about this incident. He could not recall checking with his officers to see if they had notified the complainant's parents before the juvenile was released from the precinct. Arnedos stated that he did not believe that the complainant was questioned by anyone in the juvenile room at the stationhouse. (Tr. 638-39, 655-56, 659-62, 665-68, 670-71)

Specification 1 charges Arnedos with failure to supervise. In a Bill of Particulars (Court Ex. 1), the Department Advocate provided a detailed list of the ways in which they allege that Arnedos failed to supervise. It is charged that he failed to inspect his officers' Activity Logs, failed to have a Stop Report prepared, dangerously allowed the complainant to leave the precinct unescorted, failed to document any deficiencies in his officers' use of their BWCs, did not list who was present for duty in the Command Log, and did not document or record interviews of the complainant that allegedly occurred inside the stationhouse. These allegations will be discussed individually.

Section 212-08 of the Patrol Guide required Arnedos, as a supervisor, to inspect and sign his officers' Activity Logs. Arnedos conceded that he did not do so on the date of the incident. He explained that the officers returned to the stationhouse early in their tour, and so Arnedos

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never made it out into the field to inspect their Logs during their shift. I do not find that explanation persuasive, since Arnelos could instead have inspected the Activity Logs while they were back at the command, particularly since his officers had just been involved in an encounter in which force was used and an arrest made. His failure to do so under these circumstances constitutes misconduct.

With respect to the Stop Report, I do not find misconduct on the part of Arnelos. As discussed above, the credible evidence has failed to establish that a Stop Report was required under the circumstances presented here.

Arnelos conceded that he failed to ensure that the complainant's parents were notified that their son was in custody (Specification 4). That misconduct was compounded when the juvenile was permitted to leave the precinct, unescorted, at approximately 2140. The complainant's mother testified that her son was placed in a dangerous position where in order to get home, he needed to travel through gang territory without train fare. Even if the claim of no train fare was unfounded, since the complainant had \$68 in his possession, it was still improper for Arnelos to release a juvenile from the stationhouse unescorted.

Section 212-123 of the Patrol Guide requires a supervisor to review his officers' BWCs to ensure that they are using them properly. It is the supervisor's responsibility to conduct an investigation when an MOS has failed to record all or part of an encounter, and also to document any such failure. Here, Arnelos acknowledged that he did review the officers' BWC footage from this incident. As discussed above, the officers did not activate their BWCs in a timely manner. Nevertheless, Arnelos failed to take any action to address this failure, or document it in any way.

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Regarding the Command Log, it is alleged that Arnedos failed to list he and his Public Safety Team as present for duty in the Log. It is undisputed that no such entries appear in the Log (Dept. Ex. 18). However, Arnedos testified credibly that he was unaware of any such requirement, nor has the record established that there were any such guidelines in place at the time for a Public Safety Sergeant.

While inside the juvenile room at the precinct, the complainant was questioned by officers about criminal activity in his neighborhood. The complainant recounted in detail how he was pressed to provide information about guns. Despite being the supervisor, Arnedos testified that he was unaware of any such questioning of the complainant. This failure to supervise, document, or record what transpired constituted misconduct on his part.

As such, the credible evidence has established multiple instances where Sergeant Arnedos failed to supervise his subordinate officers. However, as noted above, some of the allegations were not supported by the record. Accordingly, I find Respondent Arnedos guilty-in-part of Specification 1.

Specification 2 charges Respondent Arnedos with failure to conduct a full and proper investigation into the force incident. Again, the Department Advocate provided a Bill of Particulars (Court Ex. 1), which lists the specific ways in which Arnedos allegedly failed to investigate: he did not interview the complainant, he failed to take photographs of the complainant's injuries, and he did not promptly assess the level of force used in this matter in order to initiate a TRI report.

In use of force incidents, Section 221-03 (12) & (13) of the Patrol Guide requires the supervisor to question civilians regarding possible injuries, and to take digital photographs of

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visible injuries or any area where injury is claimed. On the one hand, counsel for Arnelos correctly notes that based on the record, there were no visible injuries on the complainant during his time at the precinct, nor did he complain of any; as such, there was nothing for Arnelos to photograph. It was not until the next day that the complainant first complained of his injuries to his mother, who took photographs (Dept. Ex. 6) which show bruising to her son's rib and back, purportedly from the incident.

However, that explanation does not absolve Arnelos from his responsibility to have directly questioned the complainant regarding possible injuries. Arnelos claimed that while he was at the desk, he heard the complainant tell other officers that he did not need medical attention. Arnelos conceded, though, that he, himself, did not question the complainant about whether he was injured, even though the complainant was present in the stationhouse for more than one hour. His failure to do so was contrary to the requirements of the Patrol Guide.

Regarding the TRI report, Section 221-03 of the Patrol Guide required Arnelos, as the supervisor, to "make a prompt assessment" of the circumstances surrounding the incident and to determine the level of force. This assessment is an important first step in determining what further investigation is required. It also is necessary for purposes of preparing the appropriate reports, including the TRI.

Here, despite Sergeant Sandoval's claim to the contrary, the credible evidence established that Arnelos and his colleagues did promptly make an initial assessment of the matter. Arnelos testified that the issue was discussed, and a preliminary determination made that this was a Level 1 force incident; Inspector Castillo and Lieutenant DiSanto corroborated his account. Although he did not immediately commence preparation of the TRI report, I credit Arnelos's explanation

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that he fully intended to prepare the report, and other paperwork, by the end of his shift. When the complainant's mother made her call to IAB alleging excessive force, the matter was reassessed and upgraded to a Level 2, and Captain Haggerty was notified. The captain had Arnedos commence preparation of the TRI, which he did, and Captain Haggerty handled the completion of the report upon his arrival at the stationhouse. Under these circumstances, the record has failed to establish that Arnedos committed misconduct with respect to the TRI report.

As such, the credible evidence has established that there were ways in which Arnedos failed to conduct a full and proper investigation into this matter. However, as with Specification 1, above, some of the allegations were not supported by the record. Accordingly, I find Respondent Arnedos guilty-in-part of Specification 2.

Respondent Comparato

Respondent Comparato faces three charges, for failing to activate his BWC in a timely manner, failing to make complete entries in his Activity Log, and being discourteous and insubordinate during his official Department interview. Comparato pleaded guilty to the Activity Log charge (Specification 2), and contested the remaining two specifications.

Comparato was interviewed by Sergeant Sandoval on June 24, 2021. Also present were Comparato's attorney, David Stand, a PBA delegate, Lieutenant Semioli, and Sergeant Mazza. The interview took place in a room of approximately 15 feet, with two doors. The participants were seated at a table, with a plexiglass partition separating Comparato from his questioners. A recording device was placed at the center of the table.

Sandoval testified that during the interview, Comparato failed to show "proper respect" to the investigation. He described Comparato as "irate, angry, even aggressive with his verbal

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expression.” Sandoval claimed that Comparato was evasive and very disrespectful when answering questions, even laughing at times. At one point, Comparato slammed his fist onto the table and moved his body toward the plexiglass in an intimidating manner. According to Sandoval, Comparato was visibly agitated, to the point where his delegate had to calm him down. There was a break in the interview, and when the parties returned the remainder of the interview went smoothly. (Tr. 213-17, 253-59, 265)

Sergeant Stephen Mazza of Patrol Borough Manhattan North Investigations, corroborated Sandoval’s testimony that Comparato appeared angry or upset when they started the interview, and that he became increasingly agitated as the interview continued. According to Mazza, Sandoval was not aggressive toward Comparato in his questioning. Rather, Comparato was giving general answers to Sandoval’s questions that called for more specific answers; there were several times where Sandoval needed to instruct Comparato to answer the question. Mazza testified that he recalls one specific instance where Comparato slammed his fist against the table as he leaned into the plexiglass, which Mazza interpreted as an aggressive gesture by Comparato; with the aid of headphones, the sergeant was able to hear the resulting thud on the recording of the interview (Dept. Ex. 23A) at about the 19:43 mark. He testified that he did not say anything about the fist-slamming when it happened because he was not the lead investigator on this matter. (Tr. 99, 101-07, 112, 118-19, 132, 136)

Attorney Stand, who represented Comparato at the interview, testified that everyone was wearing a mask. There was an open door and it was very noisy. Stand also noted that the lead investigator, Sandoval, had a heavy accent. Under these circumstances, it was difficult to hear what was being said. (Tr. 357-58)

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According to Stand, “from the opening bell...the investigator was in attack mode.” Stand interjected at several points, urging Sandoval to ask questions without attacking Comparato. Stand testified that Comparato appeared annoyed at how he was being treated, though he never slammed his fist down on the table. At times, Comparato had to lean in toward the plexiglass in order to hear what was being asked, but he did not do so in a menacing or threatening way. After a recess, the questioning took on a “smarter tone,” and the remainder of the interview proceeded more smoothly. (Tr. 361-64, 371)

At trial, Comparato testified that on the night of the incident he was in a separate car from Aiello and Bracco. When he observed those officers exit their vehicle to pursue the complainant, he joined the pursuit, although he did not know why they were pursuing him. After exiting his vehicle, Comparato slipped and fell in a snowbank. and did not witness the actual apprehension. Comparato acknowledged that he did not activate his BWC during the pursuit, since he did not know exactly what was happening at that point, and was more concerned for everyone’s safety. He admitted that he failed to make complete Activity Log entries on multiple occasions in the first three months of 2021. (Tr. 376-78, 400-12)

Comparato testified that before his Department interview, he and Sandoval reviewed the video footage of the incident. Sandoval pointed to the vehicle of Aiello and Bracco and said to Comparato that he, too, was in that car, and that he stopped an individual because of his race and socioeconomic status. Comparato had to correct Sandoval that he was, in fact, in a separate vehicle. (Tr. 382-84, 416, 435)

The interview took place in a very small office with two doors, one of which led to the noisy lobby of the precinct. There was plexiglass separating Comparato and his attorney from

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Sandoval, who was wearing a mask, and Sergeant Mazza. Comparato testified that these factors, along with Sandoval's heavy accent, made it difficult at times for Comparato to hear and understand the questions posed to him. As such, there were moments where Comparato had to lean forward toward the hole in the plexiglass in order to better understand the question; it was not meant to be a menacing gesture on his part. (Tr. 379-81, 387, 395-96)

Comparato described the tone used by Sandoval to be unnecessarily aggressive, and it felt like Sandoval was "drilling" him. He testified that Sandoval would repeatedly cut him off before he was finished answering, then re-ask the question in a way that was designed to get Comparato to change his answer. At times, he felt that Sandoval was trying to "berate" and "embarrass" him, and treating him as if he were guilty before he even walked into the room. Comparato acknowledged that he was getting annoyed with this manner of questioning, but denied that he pounded the table with his fist during the interview. He explained that with his military background (he was a combat medic for the Marine Corps), he has great respect for the chain of command and rank, and he insisted that he was doing his best to answer the questions. Comparato testified that at some point he was so upset with how the interview was going that he placed his hands over his face, prompting his attorney to pat him on his back and reassure him that he'll be fine. (Tr. 374, 385-88, 391-94, 398-99, 418-25, 431-34)

Specification 1 charges Comparato with failing to activate his BWC in a timely manner. Comparato acknowledged that he did not activate his camera when he joined the pursuit of the complainant (Dept. Ex. 13A). He explained that he was unsure what precisely was happening at that moment, and was more concerned for everyone's safety. However, as noted above, Section 212-123 of the Patrol Guide requires mandatory activation of BWC for all UMOS prior to

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engaging in or assisting another UMOS in police action, including situations where a public interaction escalates and becomes adversarial. Even if Comparato did not know the details of what had transpired with the complainant, he clearly was assisting his fellow officers in their pursuit, and needed to activate his BWC. This he failed to do, and I find Respondent Comparato guilty of Specification 1.

Specification 2 charges Comparato with failing to make complete entries in his Activity Log during a two-month period beginning on January 1, 2021. Respondent pleaded guilty to this charge, admitting that he failed to make complete entries in his Log not just on the date of this incident (Dept. Ex. 20), but on other days during that period as well.

Specification 3 charges Comparato with being discourteous and insubordinate during his official Department interview. Witnesses from both sides provided different accounts of what transpired during the course of the interview. Not surprisingly, each side found fault with the other for how the interview unfolded.

The audio recording and transcript (Dept. Exs. 23A & B) shed light on what occurred during the interview. The recording confirms that the tenor of the interview, from the outset, was often confrontational, with both sides contributing to the antagonism that was evident inside the room. At times, Comparato appeared to be less than forthcoming with his answers, while the tone of the questioning often sounded unduly aggressive and accusatory. Indeed, when the parties returned after taking a break in the questioning, the interview proceeded much more smoothly, suggesting that both sides were capable of making adjustments to their initial approaches to the interview.

The interview began with Sandoval questioning Comparato about his lack of Activity Log entries; he asked Comparato not just about the date of this incident, but went through the officer's Activity Log day-by-day for February, before declaring that there was a pattern of intentional omissions. Rather than ask Comparato to explain why he recorded nothing in his Activity Log, Sandoval questioned whether he felt "entitled" not to make entries; Comparato dismissively replied, "I don't feel anything." (Dept. Ex. 23B at 4-7)

Sandoval then moved on to the date of the incident, asking whether Comparato was working that day. When Comparato answered that he was, Sandoval asked "how do you know that," presumably another reference to the lack of an Activity Log entry. Comparato again dismissively replied, "I guess I don't know." The subsequent discussion of Comparato's tour time for that date also was unnecessarily contentious. (Dept. Ex. 23B at 7-9)

When asked to describe the RMP he was assigned to that day, Comparato initially responded, "old." With further coaxing, and time to reflect, he added additional details. Asked to name the operator of the vehicle, Comparato replied, "Zalewski." Sandoval then asked whether Zalewski was a PAA, presumably to convey the message that Comparato should have referred to his colleague as "Officer Zalewski," and not just by his last name. This issue resurfaced later in the interview as well when Comparato referred to his C.O. as "Castillo," rather than "Deputy Inspector Castillo;" Sandoval accused Comparato of "borderline insubordination" at that point. (Dept. Ex. 23B at 9-11, 18-19)

In response to questions about what instructions were given at roll call on the date of the incident, Comparato initially gave short answers with minimal detail; only with further prodding

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did he provide more specific information regarding the gang violence they were addressing.
(Dept. Ex. 23B at 12-16)

Comparato proceeded to give a detailed account of how he joined the pursuit. When questioned as to the precise location where his colleagues had apprehended the complainant, Comparato explained he could not specify the building they were near, since he was not often in the King Towers and was unfamiliar with the courtyard area. Comparato stated that he had not seen the complainant prior to the pursuit. Sandoval then asked whether he had observed the complainant in front of 70 Lenox Avenue, and Comparato responded, "I don't even know where that is." Sandoval told him that it was a yes or no question, and that he was not answering the direct questions posed to him. It was at this point that Comparato allegedly leaned in toward the plexiglass and pounded his fist on the table. Sandoval asked Comparato whether he had a problem, and again accused Comparato of borderline insubordination, before the parties agreed to take a break. (Dept. Ex. 23B at 28-31) As noted above, the interview proceeded more smoothly upon their return.

A careful listening of the recording reveals that at approximately 19:43, a sound can be heard that was consistent with Comparato having struck the table, though the recording is by no means conclusive that that was, in fact, the source of the sound. In any event, after reviewing the entire interview, and carefully observing Comparato on the witness stand, I am not persuaded that Comparato was intending to threaten Sandoval in any way during the interview. If he did pound the table, it was an act born out of his exasperation with how the interview was proceeding, and not designed to intimidate his questioner. Similarly, I credit Comparato's

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testimony that his reason for leaning in toward the plexiglass was due to his difficulty in hearing some of the questions put to him, and not a threatening gesture.

Notwithstanding his frustrations, Comparato, a uniformed MOS, is expected to control his emotions when he is being questioned as part of an official Department investigation, and behave in a professional manner. Even if this interview was unnecessarily contentious from the outset, and the tone of the questioning, at times, unduly aggressive, Comparato still was responsible for answering the questions put to him. As discussed above, at times he failed to do so, in a way that was discourteous toward his questioners; indeed, his own attorney commented that Comparato did not react well to the questioning, and was visibly annoyed. Accordingly, I find Respondent Comparato guilty of Specification 3.

PENALTIES

In order to determine appropriate penalties, the tribunal, guided by the Department Disciplinary System Penalty Guidelines (“Disciplinary Guidelines”), considered all relevant facts and circumstances, including any aggravating and mitigating factors established in the record. Respondents’ employment histories also were examined. *See* 38 RCNY § 15-07. Information from Respondents’ personnel records that was considered in making these penalty recommendations is contained in attached memoranda.

With respect to Respondents Bracco and Aiello, the Department Advocate recommends that they each be terminated from the Department for intentionally making false official statements. As an alternative, if the two Respondents were found not guilty of the false statements charge, the Advocate recommends that Bracco forfeit 40 vacation days, and that

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Aiello forfeit 48 vacation days. Since I have found these two Respondents not guilty of several specifications, including the false statements charge, a lesser penalty is warranted for each.

Neither Bracco nor Aiello have any formal disciplinary history, and both have exceptional records with the Department. Bracco has received one medal for Excellent Police Duty, and one for Meritorious Police Duty. Aiello has been awarded two medals for Meritorious Police Duty, and testified that he received a plaque for being named "Cop of the Year" in 2021. But more than their medals, their supervisors, particularly Inspector Castillo, raved about the superior work done by Bracco and Aiello, often under dangerous circumstances, and their commitment to public safety. Inspector Castillo described them as highly driven and extremely professional officers who are mature beyond their years.

Nevertheless, each of these Respondents has been found guilty of two charges, and there needs to be appropriate accountability. Bracco has been found guilty of failing to activate his BWC in a timely manner, and failing to notify the juvenile complainant's parents that he was arrested and in custody at the precinct. Regarding the BWC charge, to his credit Bracco did activate his camera once the complainant was safely secured, and the one-minute look-back period of the BWC shows the complainant being handcuffed. However, his failure to activate it earlier on Lenox Avenue prevented his camera from capturing his initial interaction with the complainant and the subsequent pursuit. The presumptive penalty for this offense is three penalty days; on balance, that penalty, the forfeiture of three (3) vacation days, is appropriate here. As for his failure to notify the complainant's parents, that misconduct is an "A" Command Discipline level offense, and a penalty of two (2) additional vacation days is warranted. Since

these were two distinct offenses, their penalties should run consecutively. Accordingly, I recommend that Respondent Bracco forfeit a total of five (5) vacation days.

With respect to Aiello, he also has been found guilty of the BWC charge, as well as for failing to make entries in his Activity Log. For the reasons discussed above with Bracco, a forfeiture of three (3) vacation days is appropriate to address the BWC offense. As for the Activity Log charge, this is an "A" Command Discipline offense. On the one hand, Aiello pleaded guilty and accepted responsibility for this misconduct, and if there were no aggravating factors this Tribunal would have been inclined to recommend verbal instructions for this offense. However, Aiello previously received a Command Discipline that included a memo book related offense, and so a forfeiture of two (2) additional vacation days is appropriate. Again, since these two offenses are distinct, the penalties should run consecutively. Accordingly, I recommend that Respondent Aiello forfeit a total of five (5) vacation days.

Respondent Comparato has pleaded guilty to failing to make entries in his Activity Log, and also has been found guilty of two additional charges: for failing to activate his BWC, and for being discourteous during his official Department interview. The Department Advocate asks for a penalty of 28 vacation days. Under the circumstances presented here, a lesser penalty is warranted.

Comparato has no formal disciplinary record. Like his colleagues, he has received exceptional evaluations, and has been awarded one medal for Excellent Police Duty.

With respect to the Activity Log offense, not only did Comparato fail to make entries on the date of the incident, he had incomplete entries on multiple additional dates as well. As such, a forfeiture of three (3) vacation days is appropriate.

Regarding the failure to activate his BWC in a timely manner, Comparato also did not activate his camera during the initial part of the pursuit, and so there needs to be accountability. However, he was in a separate vehicle from Bracco and Aiello; he was not aware of any details as to what had transpired with the complainant, and merely joined the pursuit in support of his fellow officers. Upon arriving at the location where the complainant had been apprehended, Comparato did activate his camera. Under these circumstances, a mitigated penalty of two (2) vacation days is appropriate.

The more serious offense was Comparato's conduct during his Department interview. The Department Advocate asks that he forfeit 20 vacation days for his discourtesy. On the one hand, I agree with the Advocate that Comparato's behavior did constitute discourtesy. There were times where Comparato was less than forthcoming with his responses, and he contributed to the contentious nature of the interview. Even if he was frustrated with the aggressive quality of the questioning, Comparato needed to do a better job maintaining his composure and his professionalism during the course of the interview.

However, as discussed above, both sides contributed to the unnecessary antagonism that was evident during the early portion of the interview, before the parties took a break and the interview proceeded more smoothly. I was not persuaded that Comparato was intending to be intimidating toward his questioners; on the witness stand at trial, he appeared genuinely upset that the interview did not proceed more smoothly. On balance, a more moderate penalty is appropriate, one that takes into account the context of how the interview unfolded: a forfeiture of five (5) vacation days is warranted. Since each of Comparato's offenses were distinct, the

penalties should run consecutively. Accordingly, I recommend that Respondent Comparato forfeit a total of ten (10) vacation days.

Respondent Arnedos, who has no formal disciplinary record, has pleaded guilty to two offenses, for not making Activity Log entries, and for failing to ensure that the parents of the juvenile complainant were notified. Arnedos also has been found guilty-in-part for his failure to supervise, and for not conducting a full and proper investigation. The Department Advocate recommends that he forfeit a total of 45 vacation days, and that he be placed on one-year dismissal probation. Under the circumstances presented here, a lesser penalty is warranted.

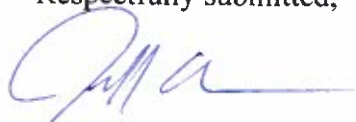
The charges against Arnedos essentially deal with the way in which he managed and supervised this arrest once his officers brought the complainant to the stationhouse. As discussed above, there were some omissions in his supervision and investigation, for which he needs to be held accountable. Notably, he failed to speak directly with the complainant, even though the complainant was at the stationhouse for more than one hour. He then compounded that mistake by failing to ensure that the juvenile complainant's parents were notified, and the complainant was released from the precinct unescorted. Also, Arnedos was inexcusably unaware that the complainant was being questioned in the juvenile room by MOS, who were seeking to elicit information regarding criminal activity in the neighborhood. Additionally, aside from the deficiencies in his own Activity Log, Arnedos failed to inspect the Activity Logs of his officers, where he would have uncovered their deficiencies as well.

However, after listening carefully to Arnedos's testimony, and considering it in conjunction with the other credible evidence, I conclude that overall Arnedos was actively involved in supervising this arrest. He promptly met with the officers involved, reviewed their

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BWC footage, discussed with them what had transpired, and, with input from Lieutenant DiSanto, assessed the level of force that was used by the officers. Viewing his handling of the matter as a whole, his misconduct does not rise to a level where a period of monitoring would be warranted. Rather, a forfeiture of fifteen (15) vacation days is appropriate to address the totality of Sergeant Arnedos's misconduct.

Respectfully submitted,



Jeff S. Adler
Assistant Deputy Commissioner Trials

APPROVED


JAN 20 2023
KEECHANT L. SEWELL
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: SUMMARY OF EMPLOYMENT RECORD
POLICE OFFICER VINCENT BRACCO
TAX REGISTRY NO. 966969
DISCIPLINARY CASE NO. 2021-23834

Respondent was appointed to the Department on January 3, 2019. On his most recent annual performance evaluation, Respondent was rated as “Exceptional” for 2021. He has been awarded one medal for Excellent Police Duty and one medal for Meritorious Police Duty.

Respondent has no formal disciplinary history. In connection with the instant matter, he was placed on Level 1 Discipline Monitoring in February 2022; monitoring remains ongoing.

For your consideration.

Jeff S. Adler
Assistant Deputy Commissioner Trials



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: SUMMARY OF EMPLOYMENT RECORD
POLICE OFFICER ANDREW AIELLO
TAX REGISTRY NO. 959447
DISCIPLINARY CASE NO. 2021-23835

Respondent was appointed to the Department on October 7, 2015. On his three most recent annual performance evaluations, Respondent was twice rated “Exceptional” for 2020 and 2021, and was rated “Exceeds Expectations” for 2019. He has been awarded two medals for Meritorious Police Duty.

Respondent has no formal disciplinary history. In connection with the instant matter, he was placed on Level 1 Discipline Monitoring in May 2022; monitoring remains ongoing.

For your consideration.

Jeff S. Adler
Assistant Deputy Commissioner Trials



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials

To: Police Commissioner

Subject: SUMMARY OF EMPLOYMENT RECORD
POLICE OFFICER MICHAEL COMPARATO
TAX REGISTRY NO. 959562
DISCIPLINARY CASE NO. 2021-24394

Respondent was appointed to the Department on October 7, 2015. On his three most recent annual performance evaluations, he was twice rated “Exceptional” for 2020 and 2021, and was rated “Exceeds Expectations” for 2019. He has been awarded one medal for Excellent Police Duty.

Respondent has no formal disciplinary history. In February 2022, he was placed on Level 1 Force Monitoring for having received 3 or more CCRB complaints in a one-year period. Monitoring remains ongoing.

For your consideration.

Jeff S. Adler
Assistant Deputy Commissioner Trials



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials

To: Police Commissioner

Subject: SUMMARY OF EMPLOYMENT RECORD
SERGEANT FRANK ARNEDOS
TAX REGISTRY NO. 934417
DISCIPLINARY CASE NO. 2021-24169

Respondent was appointed to the Department on July 1, 2004. On his three most recent annual performance evaluations, Respondent twice received 4.0 overall ratings of “Highly Competent” for 2019 and 2021, and received a 4.5 rating of “Extremely Competent/Highly Competent” for 2020.

Respondent has no formal disciplinary history.

For your consideration.

Jeff S. Adler
Assistant Deputy Commissioner Trials